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CONRAD J. CLARK
CLARK & BRODY
1750 K STREET, NW SUITE 600
WASHINGTON, DC 20006

In re Application of :
JOHN B. WELLS (deceased) :
Application No.: 09/623,793 :
PCT No.: PCT/US99/05287 : DECISION ON
Int. Filing Date: 11 March 1999 :
Priority Date: 11 March 1998 : 37 CFR 1.42 PAPERS
Attorney Docket no.: 70869-0068US :
For: APPARATUS FOR THE STERILE :
TRANSFER OF FLUIDS :

This is a decision on the submission under 37 CFR 1.42 filed in the Patent and Trademark Office (PTO) on 08 September 2000 along with the request for entry into the U.S. national stage.

BACKGROUND

On 08 September 2000, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, a copy of the international application and an executed declaration.

In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicant filed a declaration that was signed by inventors Wesley H. Verkaart and Lou Blasetti and by Lin A. Jakary as legal representative for inventor John B. Wells (deceased). The submission has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and the citizenship, residency and mailing address of the heir(s)/legal representative.

While the declaration submitted on 08 September 2000 identifies each inventor, it does not state the country of citizenship, former residency and mailing address of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3) and thus, is unacceptable. See 37 CFR 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

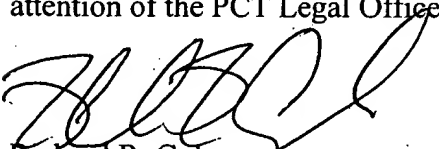
CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED WITHOUT PREJUDICE**.

If reconsideration of the merits of the request for status under 37 CFR 1.42 is desired, applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Request Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.


Richard R. Cole
Legal Examiner
PCT Legal Office


Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/RRC:cmk
Telephone: (703) 306-5467
Facsimile: (703) 308-6459